IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FIRST NAMED INVENTOR	:	James A. AMOS **Confirmation No.: 9008**
FOR	:	HYBRID WIRELESS IP PHONE SYSTEM AND METHOD FOR USING THE SAME
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APPEAL BRIEF

Mail Stop Appeal Briefs - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Final Office Action in the above-identified application was dated October 1, 2008. Applicant filed a Notice of Appeal on January 2, 2009.

Favorable consideration of the instant Appeal Brief is respectfully requested.

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REAL PARTY IN INTEREST

This application has been assigned to Cisco Technology, Inc. having a place of business at 170 W. Tasman Drive San Jose, California 95134. Cisco Technology, Inc. is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences to this Appeal.

STATUS OF CLAIMS

Claims 10-13, and 20-38 are canceled.

Claims 1-9, 14-19, and 39-43 are currently pending.

Claims 1-9, 14-19, and 39-43 are under final rejection.

Claims 1-9, 14-19, and 39-43 are under Appeal.

Claim 39 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 1-9, 14-19, and 39-43 stand rejected to under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0085516 to Bridgelall (*hereinafter,* "Bridgelall"), in view of U.S. Patent Publication No. 2001/0010689 to Awater et al. (*hereinafter,* "Awater"), in further view of U.S. Patent Publication No. 2003/0119548 to Mohammed (*hereinafter,* "Mohammed"), and in further view of U.S. Patent Publication No. 2001/0036835 to Leedom. Jr. (*hereinafter,* "Leedom").

STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The embodiments of the present application pertain generally to wireless communication devices and, more particularly, to a device, method, and system of communication incorporating wireless Voice over Internet Protocol.

As described in the Abstract, a system, device, and method are provided for sending and receiving Voice-over-Internet-Protocol over a wireless computer network utilizing a hybrid wireless Voice-over-Internet-Protocol telephone. The embodiments of the invention utilize a phone controller, a wireless handset, a base station and at least one access point. The wireless handset is equipped with both a wireless personal area network transceiver and a wireless local area network transceiver. The base station is equipped with a wireless personal area network transceiver and a network interface card. Voice-over-Internet-Protocol packets are routed to a phone controller which forwards the packets to either an access point for transmission to the wireless handset over the wireless local area network, to a base station for transmission to the wireless handset over the personal area network, or to an associated server for transmission out of the local area network such as, for example, for transmission to the Internet.

In more specific terms as related to the embodiments illustrated and without limitation, the application is directed to a wireless Voice over Internet Protocol (VoIP) wireless mobile telephone. The wireless mobile telephone is equipped with a Personal Area Network ("PAN" or "Bluetooth") transceiver and a wireless local area network ("WLAN" or "802.11") transceiver. Because the Bluetooth transceiver uses less power, whenever the mobile phone is near its base, which uses a Bluetooth connection, the mobile phone uses the Bluetooth transceiver. When the mobile phone moves beyond the range of the Bluetooth connection, it turns on the 802.11 transceiver and connects with an 802.11 access point, and sends a message over the network to a phone controller to route packets for the mobile phone via the 802.11 network. When the wireless mobile telephone is relocated back within range of the base, a Bluetooth connection is established, whereupon the mobile phone sends a message to the phone controller via the Bluetooth connection to route traffic for the wireless mobile telephone through the base. Because both the Bluetooth and 802.11 connections support VoIP, the wireless mobile telephone initiates the transfer between the base and the 802.11 network.

In one embodiment of the claimed invention (p8, ln 1-16), such as set out in independent claim 1, a wireless voice over Internet Protocol telephone, comprises a wireless handset 100, a wireless local area network transceiver 102, 104, and a selecting device 106. The wireless handset that comprises a wireless personal area network transceiver 104 configured to communicate with a wireless personal area network 310. The wireless local area network transceiver 102 is configured to communicate with a wireless local area network. The selecting device 106 is configured for selecting between the wireless personal area network transceiver 104 and the wireless local area network transceiver 102.

In accordance with this embodiment (p11, ln 20- p12, ln 15), the wireless handset 100 is in voice communication with a telephone controller 302, and the telephone controller 302 is configured to communicate with a base station 200 coupled to the wireless personal area network 310 and an access point 304 coupled to the wireless local area network.

Further in accordance with this embodiment, the selecting device 106 selects the wireless personal area network transceiver 104 for routing the voice communication through the wireless personal area network 310 when the wireless personal area network transceiver 104 detects a wireless personal area network connection, otherwise the selecting device selects the wireless local area network transceiver 102.

Still further in accordance with this embodiment, the selecting device 106 is configured to send a signal to the telephone controller 302 via the wireless local area network transceiver to route the voice communication for the wireless handset 100 through the wireless local area network responsive to the wireless personal area network transceiver 104 being unable to detect a wireless personal area network connection 314.

Yet still further in accordance with this embodiment, the selecting device 106 is configured to send a signal to the telephone controller 302 via the personal area network transceiver 104 to route the voice communication for the wireless handset 100 through the wireless personal area network 310 responsive to reestablishing a connection with the wireless personal area network 310.

In another embodiment of the claimed invention, such as set out in dependent claim 2, the base station 200 of the wireless voice over Internet Protocol telephone further comprises a

wireless personal area network transceiver 202 for communicating with the wireless personal area network transceiver 104 of the wireless handset.

In another embodiment of the claimed invention, such as set out in dependent claim 3, the base station 200 of the wireless voice over Internet Protocol telephone further comprises a network interface card 210, wherein the base station 200 notifies a wireless local area network when a wireless personal area network signal from the wireless handset 100 is not detected.

In another embodiment of the claimed invention, such as set out in dependent claim 4, the wireless personal area network transceiver 202 of the base station 200 of the wireless voice over Internet Protocol telephone is a Bluetooth transceiver Fig. 2 and the wireless personal area network transceiver of the wireless handset is a Bluetooth transceiver Fig. 1.

In another embodiment of the claimed invention, such as set out in dependent claim 5, the wireless personal area network transceiver 202 of the base station 200 of the wireless voice over Internet Protocol telephone is an infrared transceiver and the wireless personal area network transceiver of the wireless handset is an infrared transceiver (p11, ln 15).

In another embodiment of the claimed invention, such as set out in dependent claim 6, the controller 302 of the wireless voice over Internet Protocol telephone is a phone controller (p15, ln 4) that is communicatively coupled to at least one access point 304 over a local area network 306, and to the base station 200 (p15, ln9-13).

In another embodiment of the claimed invention, such as set out in dependent claim 7, the wireless local area network transceiver 102, 104 of the wireless voice over Internet Protocol telephone 100 is an 802.11x transceiver (p11, ln 23).

In another embodiment of the claimed invention, such as set out in dependent claim 8, the wireless personal area network transceiver 102, 104 of the wireless voice over Internet Protocol telephone 100 is an infrared transceiver (p11, ln 15).

In another embodiment of the claimed invention, such as set out in dependent claim 9, the wireless personal area network transceiver 102, 104 of the wireless voice over Internet Protocol telephone 100 is a Bluetooth transceiver (p11, ln 23).

In yet a further embodiment of the claimed invention (p9, ln 4-17), such as set out in independent claim 14, a method Fig. 5 for a wireless handset to send and receive voice over Internet Protocol using a wireless voice over Internet Protocol telephone is provided. The

method comprises establishing 504 a wireless voice communication employing voice over Internet Protocol packets with a telephone controller through a base station via a wireless personal area network transceiver (p 16, ln 19-22).

The method further comprises determining 508 when the wireless handset is out of range of the base station (p 17, ln 1-2) and (p 17, ln 12-13).

The method still further comprises activating 518 a wireless local area network transceiver by the wireless handset responsive to determining the wireless handset is out of range of the base station (p17, ln 16-17).

The method yet further comprises sending 520 a first message via the locate area network transceiver notifying the telephone controller to send subsequent voice over Internet Protocol packets for the voice communication to the wireless handset via a wireless local area network in data communication with the wireless local area network transceiver responsive to determining the wireless handset is out of range of the base station (p17, ln 17-19).

The method still yet further comprises sending a second message 510 via the wireless personal area network transceiver notifying the telephone controller to send subsequent voice over Internet Protocol packets for the voice communication to the wireless handset via the base station responsive to determining the wireless handset has moved within range of the base station (p15, ln 15-20) and (p17, ln 2-4).

In another embodiment of the claimed invention, such as set out in dependent claim 15, the method for a wireless handset to send and receive voice over Internet Protocol includes the wireless local area network transceiver being at a remote location (p9, ln 10) and communicatively coupled (p9, ln 10) to the base station.

In another embodiment of the claimed invention, such as set out in dependent claim 16, the method for a wireless handset to send and receive voice over Internet Protocol includes establishing a communications channel 314 between a base station 200 and a wireless handset 100 using the wireless personal area network transceiver 104, 202 (p9, ln 10-12) and (p 15, ln 13-15).

In another embodiment of the claimed invention, such as set out in dependent claim 17, the method for a wireless handset to send and receive voice over Internet Protocol includes the

wireless personal area network transceiver being a Bluetooth transceiver (p11, ln 23) and (p17, ln 10).

In another embodiment of the claimed invention, such as set out in dependent claim 18, the method for a wireless handset to send and receive voice over Internet Protocol further comprises authenticating 518 (p 4, ln 16) (p17, ln 16-17) (p18, ln 13-15) the wireless handset by the base station.

In another embodiment of the claimed invention, such as set out in dependent claim 19, the method for a wireless handset to send and receive voice over Internet Protocol includes the wireless local area network transceiver being an 802.11x transceiver (p17, ln 16-17).

In yet a further embodiment of the claimed invention (p8, ln 17 – p9, l3), such as set out in independent claim 39, a system is provided comprising a network, a telephone controller 302 coupled to the network 306, 308, 318 , a wireless local area network access point 304 coupled to the network and configured to communicate with the telephone controller via the network, a wireless handset 100, and a base station 200 coupled to the network and configured to the communicate with the telephone controller 302 via the network, the base station is further configured to wirelessly communicate 314 with the wireless handset.

The wireless handset 100 of this embodiment is configured to wirelessly communicate with the base station using a first protocol (p7, ln 18-20) and (p8, ln 12-14) and to wirelessly communicate with the wireless local area access point using a second protocol (p8, ln 14-16).

The wireless handset 100 of this embodiment is further configured to communicate with the base station 200 when the wireless handset detects the base station 200 (p16, ln 16-18); otherwise the wireless handset communicates with the wireless local area network access point 304 (p16, ln 14-15).

The wireless handset 100 of this embodiment is further configured to transmit a first message for the telephone controller 302 that is sent via the wireless local area network access point to instruct the telephone controller to direct communications for the wireless handset through the wireless local area network access point 304 responsive to the wireless handset being unable to detect the base station (p17, ln 12-19).

The wireless handset 100 of this embodiment is further configured to transmit a second message for the telephone controller 302 that is sent via the base station to instruct the telephone

controller to direct communications for the wireless handset through the base station 200 responsive to detecting the base station (p17, ln 17-18).

In another embodiment of the claimed invention, such as set out in dependent claim 40, the wireless handset of the system communicates Voice over Internet Protocol compatible packets with the telephone controller (p15, ln 11-13).

In another embodiment of the claimed invention, such as set out in dependent claim 41, the base station 200 of the system communicates with the wireless handset using a Bluetooth compatible protocol (p15, ln 13-15).

In another embodiment of the claimed invention, such as set out in dependent claim 42, the wireless local area access point 304 of the system communicates with the wireless handset using an 802.11 compatible protocol (p18, ln 10-13).

In another embodiment of the claimed invention, such as set out in dependent claim 43, the telephone controller 302 of the system communicates with the base station 200 using an Internet Protocol compatible protocol and the telephone controller 302 of the system communicates with the wireless local area network access point 304 using an Internet Protocol compatible protocol (p7, ln 20-23).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I. Whether claim 39 is unpatentable under 35 U.S.C. § 112, first paragraph.

II. Whether claims 1-9 are unpatentable under 35 U.S.C. § 103(a) over Bridgelall in view of Awater, Mohammed, and Leedom.

III. Whether claims 14-19 and 39-43 are unpatentable under 35 U.S.C. § 103(a) over Bridgelall in view of Awater, Mohammed, and Leedom.

IV. Whether claims 39-43 are unpatentable under 35 U.S.C. § 103(a) over Bridgelall in view of Awater, Mohammed, and Leedom.

ARGUMENT

Applicant respectfully submits that the rejections of the claims are improper and should not be sustained for at least the following reasons set out below.

The Art Applied

Bridgelall 2002/0085516 - In Bridgelall, a Mobile Switching Center (MSC) controller 1211 initiates the call transfer, no the Mobile Station (MS) of the headset/wireless telephone as in the present application.

As described at paragraph [0011] of Bridgelall, the Mobile Station is equipped with a dual mode radio for WWAN and WLAN transmissions. The WLA Radio of the MS is linked to a WLAN Enterprise Gateway Controller (EGC) via a first air link and the WWAN Radio of the MS is linked to a WWAN Base Transceiver Station (BTS) via a second air link. The EGC of the WWAN is connected to a Mobile Switching Center (MSC), which is in turn connected with the BTS of the WWAN.

In Bridgelall, a switch over from the WLAN to the WWAN occurs when the mobile station detects signal degradation or packet error rate increases. When this occurs, the WLAN Radio of the Mobile Station requests the Enterprise Gateway Controller of the WLAN to in turn request an Explicit Call Transfer via the Mobile Switching Center controller to the WWAN Radio portion of the Mobile Station. After a make-before-break transfer from the WLAN to the WWAN, the WLAN connection is dropped.

Thus, in Bridgelall, the Mobile Switching Center controller selects the connection of WLAN or WWAN, not the Mobile Station. In the present application, however and with reference to claim 1, the wireless headset/telephone comprises selecting device for selecting between the wireless personal area network transceiver and the wireless local area network transceiver. Further, in the present application the selecting device is configured to send a signal to a telephone controller via a wireless local area network transceiver to route the voice communication of the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal are network connection. Still further in the present application, the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice

communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

Also with regard to Bridgelall, in one switch over "direction," the MSC controller selects the WWAN network by sending a signal to the WLAN network and in another switch over "direction," the MSC controller selects the WLAN network by sending a signal to the WWAN network. Thus, in Bridgelall, the switch over signal is sent to the existing network connection to proceed to the non-connected network. In the present application, however, and with reference to claim 1, the selecting device is configured to the selecting device is configured to send a signal to a telephone controller via a wireless local area network transceiver to route the voice communication of the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal are network connection. Still further, in the present application as noted above, the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

Mohammed 2003/0119548 - In Mohammed, a system and a method are disclosed for integrating a licensed wireless system with an unlicensed wireless system. The method includes initiating a wireless communication session in a first region serviced by a first wireless system and maintaining the wireless communication session in a second region serviced by a second wireless system. The first wireless system is selected from the group including a licensed wireless system and an unlicensed wireless system. The second wireless system is the unselected system from the group including the licensed wireless system and the unlicensed wireless system.

According to Mohammed, services that would typically be provided via a licensed wireless system can be delivered to the unlicensed base station using inexpensive and high quality landline networks. The unlicensed base station subsequently provides service to a handset using unlicensed, free spectrum (e.g., spectrum around 2.4 GHz or 5 GHz). Thus, when a subscriber is within range of the unlicensed base station, the subscriber enjoys low cost, high speed, and high quality voice and data services. In addition, the subscriber enjoys extended

service range since the handset can receive services deep within a building. This type of service range is not reliably provided, according to Mohammed, by a licensed wireless system.

The system of Mohammed is alleged to also allow the subscriber to roam outside the range of the unlicensed base station without dropping communications. Instead, roaming outside the range of the unlicensed base station results in a seamless handoff (also referred to as a hand over) wherein communication services are automatically provided by the licensed wireless system.

Figure 1 of Mohammed illustrates the basic components of the system 10 disclosed therein and wherein a subscriber device 12 may roam between one of more licensed wireless communication service areas 14 and one or more unlicensed wireless service areas 16. A base station 18 wirelessly transmits telephone signals from a standard Public Switched Telephone Network (PTSN) 20 to the subscriber device 12. As described at paragraph [0020], a system server 24 facilitates seamless transitions between the licensed wireless service and the unlicensed wireless service. The base station includes a subscriber interface module 228, which, as described at paragraph [0061] initiates a handoff command when the signal strength from the subscriber device reaches a threshold corresponding to a predetermined threshold.

Thus, in Mohammed, the subscriber interface module 228 initiates the handoff command, not the roaming subscriber device.

Awater 2001/0010689 - Awater discloses a method and device incorporating a first radio system operating at a first range of frequencies of operation and a second radio system operating at a second range of frequencies of operation. A control means of the device is adapted to control the first and second radio systems such that only one or the other radio system may transmit or receive signals at a time. It is alleged that prohibiting simultaneous transmission and reception enables the radio receiver to be shared between devices allowing a cheaper and smaller hardware design.

In a first mode of operation, the user may decide which mode to switch to. However, nothing in Atwater teaches or suggests instructing a telephone controller, associated with a network, over which wireless network to send traffic for a wireless telephone. Similarly, in the

second and third modes of operation, nothing in Atwater teaches or suggests sending signals to control a flow of traffic such as, for example, the flow of voice and/or data.

Specifically, as set out at paragraph [0055] of Atwater, in the switching mode, the interoperability device operates merely to deactivate, or switch off, one of the two transceivers within the dual mode transceiver. Simply, when the interoperability device is switched to the "IEEE 802.11" mode, the transceiver behaves as an 802.11 transceiver. When the interoperability device is switched to the "Bluetooth" mode the transceiver behaves as a Bluetooth transceiver. There is no selecting device in Awater capable of sending signals to a telephone controller to route communications for a wireless headset through a wireless personal area network or a wireless local area network. The device of Awater simply changes its own state but it does not send signals for routing communications to the device.

Leedom 2001/0036835 - Leedon discloses a wireless, multi-modal access device and system adapted to integrate a number of communications networks operating in differing communication modes to facilitate transfer of communication links during a communication session to promote efficient use of the communication networks. The system described in Leedom includes a plurality of Universal Multi-Modal Access Devices UMMAD that are capable of operating at different frequencies and different protocols (TDMA, AMPS, CDMA, GSM, PCS etc) to communicate with any one of a number of Wide Bandwidth Gateways (WBG), which are each capable of communication using one or more of the protocols. The communication links may be switched from one WBG to another or from one protocol to another during a communication session to continue the session under the control of a Universal System Traffic Controller.

Thus, since the switching in Leedom is under the control of a Universal System Traffic Controller. There is no teaching or suggestion of initiating a switch in the flow of data/voice traffic by or under the control of the wireless telephone.

The Present Application

The instant application is directed to a wireless Voice over Internet Protocol (VoIP) wireless mobile telephone. The wireless mobile telephone is equipped with a Personal Area Network ("PAN" or "Bluetooth") transceiver and also with a wireless local area network ("WLAN" or "802.11") transceiver. Because the Bluetooth transceiver uses less power, whenever the mobile phone is near its associated base, which uses a Bluetooth connection, the mobile phone uses the Bluetooth transceiver. When the mobile phone moves beyond the range of the Bluetooth connection, it turns on the 802.11 transceiver and connects with an 802.11 access point, and sends a message over the network to a phone controller to route packets for the mobile phone via the 802.11 network. When the wireless mobile telephone enters back within range of the base, a Bluetooth connection is established, whereupon the mobile phone sends a message to the phone controller via the Bluetooth connection to route traffic for the wireless mobile telephone through the base. Because both the Bluetooth and 802.11 connections support VoIP, the wireless mobile telephone initiates the transfer between the base and the 802.11 network.

By contrast and in general, in Bridgelal a Mobile Switching Center (MSC) controller, not the headset taking over the call, initiates the transfer. In Mohammed, the base station performs the handoff, not the mobile headset. Atwater is directed to a device that has both a Bluetooth transceiver and an 802.11 transceiver but Atwater does not teach or suggest sending a signal to the telephone controller instructing the telephone controller over which network to send traffic for the wireless telephone. Leedom employs a Universal System Traffic Controller (USTC) that decides when to switch networks. Like Bridgelal, the wireless telephone of Leedon does not initiate the switch or send packets to the telephone controller to direct where traffic for the wireless telephone should be directed.

Applicant respectfully submits that all of the rejections are improper and should not be maintained for at least the following reasons.

With regard to the non-art rejection, it is respectfully submitted that the specification and drawings clearly support disclosure of an access point and a base station coupled to the same network. Applicant's detailed arguments follow below.

I. Claim 39 is in Condition for Allowance

Claim 39 stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner, the claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. In that regard, as noted by the Examiner in the Office Action, claim 39 recites "a network; a telephone controller coupled to the network; a wireless local area network access point coupled to the network...; a base station coupled to the network..." However, according to the Examiner, the drawings, in particular Fig. 3, and the specification, in particular, paragraphs [0036] and [0037] of published application, fail to disclose the access point and the base station as being coupled to the same network.

Applicant respectfully disagrees. Figure 3 clearly shows that both the base station 200 as well as the access point 304, are mutually connected to a network including a phone controller 302 and a backbone 306.

As described in the application as published at paragraph [0018] for example, a system is provided for sending and receiving voice over Internet Protocol using a wireless voice over Internet Protocol telephone, comprising a telephone, the telephone comprising a wireless handset having a wireless personal area network transceiver and a wireless local area network transceiver, and a base station having a network interface card and a wireless personal area network transceiver, an access point, and a controller communicatively coupled to the base station and to the access point via a local area network. As further described, the wireless handset and the base station both have the same wireless local area network transceiver which is typically an 802.11x transceiver. Similarly, the wireless handset and the base station both have the same wireless personal area network transceiver, which may be either a Bluetooth transceiver or an infrared transceiver. Thus, the access point and the base station are coupled to the same network, together with the controller.

Further, as described in the application as published at paragraph [0036] for example, in the system embodiment presented in FIG. 3, incoming and outgoing data received from and transmitted by the base station 200 and the access point 304 is transported over backbone 306. Backbone 306 may be any standard network well known in art, including but not limited to a

LAN, a WAN, an Ethernet, an Internet, an Intranet, or a combination of these or other networks. As shown in the embodiment of FIG. 3, backbone 306 is with the Internet 318 using any suitable intermediary server. Incoming Voice-over-Internet-Protocol packets are first sent to a phone controller 302. These packets may originate from either an outside caller dialing the user or via another Voice-over-Internet-Protocol telephone already on the local network. It is particularly noted at paragraph [0036] that the phone controller 302 is represented in the present diagram as a separate physical device, however the phone controller 302 may be a function of a server or other device operating on the local area network. Additionally, applicant respectfully submits that Figure 3 clearly shows the access point 304 connected with the backbone 306 which, as described immediately above is a network and, further, the base station 200 is connected with the backbone via the controller 302.

In accordance with the above, therefore, it is respectfully submitted that the specification as originally filed and including the drawings, clearly and adequately disclose an embodiment wherein the access point and the base station are coupled to the same network.

Therefore, this rejection is improper and should not be maintained.

II. Claims 1-9 are in Condition for Allowance

First, applicant respectfully submits that the combination of Bridgelall in view of Awater, Mohammed, and Leedom does not teach, suggest of fairly disclose the invention recited in claims. Further, applicant respectfully submits that Bridgelall in view of Awater, Mohammed, and Leedom are not combinable in the manner as suggested by the Examiner and, in addition, if they were combined in the manner as suggested by the Examiner, the combination would not teach, suggest or fairly disclose the embodiments of the claimed invention. Still further, applicant respectfully submits the Examination Guidelines as further evidence that the claims are patentable over the art of record.

A. Applicant respectfully submits that the combination of Bridgelall in view of Awater, Mohammed, and Leedom does not teach, suggest of fairly disclose the inventions recited in claims.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). For reasons that will now be set forth, neither Bridgelall, Awater, Mohammed, nor Leedom, alone or in any combination, teach or suggest all of the claim limitations of claims 1-9.

Regarding claim 1, the Examiner took the position that Bridgelall teaches a wireless voice over Internet Protocol (VoIP) telephone, comprising: a wireless handset that comprises a wireless personal area network transceiver configured to communicate with a wireless personal area network, a wireless local area network transceiver configured to communicate with a wireless local area network, and a selecting device for selecting between the wireless personal area network transceiver and the wireless local area network transceiver. The Examiner cited to Figs. 1, 2 and paragraphs [0011] and [0026] of Bridgelall but he did not specifically identify the portion of the Bridgelall system considered to be the wireless headset as several devices appear to be shown in Figures 1 and 2 and described in parragraphs [0011] and [0026]. Further, the Examiner did not identify a selecting device of the alleged wireless headset.

The Examiner further argued that the alleged wireless handset of Bridgelall is in voice communication with a telephone controller and cited the MSC of Figs. 2 & 12, and that the

controller of Bridgelall is configured to communicate with a base station (106 of Fig. 1) coupled to the wireless personal area network and an access point (104 of Fig. 1) coupled to the wireless local area network (Fig. 1, paragraph 0026). The Examiner alleged a base station to be shown at 106 in Fig. 1, an access point to be shown at 104 in Fig. 1, and a wireless local area network to be shown at Fig. 1 and described at paragraph [0026] of Bridgelall.

The Examiner further argued that the alleged selecting device of Bridgelall is configured to send a signal via the wireless local area network transceiver to route the voice communication for the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection. The Examiner cited to Fig. 1 and paragraph [0026] of Bridgelall, where, according to the Examiner, the signal is obviously sent via wireless local area network transceiver since, according to the Examiner, the wireless personal area network connection is off.

Without conceding any of the above or that Bridgelall teaches sending signals via a wireless local area network transceiver when a wireless personal area network connection is off, applicant respectfully submits that Bridgelall does not teach a wireless handset sending a signal responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection to send a signal via the wireless local area network transceiver to route the voice communication for the wireless handset through the wireless local area network. In Bridgelell, the signals for controlling the routing originate within the network, not from the roaming wireless headset as in the present claims.

The Examiner further argued that the alleged selecting device of Bridgelall is configured to send a signal to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network. The Examiner cited to Fig. 1 and paragraphs [0026] and [0065] of Bridgelall, where, according to the Examiner, network selection is based on a user's preference.

Applicant respectfully submits that Bridgelall does not teach or suggest a wireless handset including a selecting device and, in particular, Bridgelall does not teach or suggest a wireless handset including a selecting device configured to send a signal to a telephone controller via a wireless local area network transceiver to route a voice communication for the wireless handset through a wireless local area network responsive to a wireless personal area network

transceiver being unable to detect a wireless personal area network connection, and wherein the selecting device is further configured to send a signal to the telephone controller via a personal area network transceiver to route the voice communication for the wireless handset through a wireless personal area network responsive to reestablish a connection with the wireless personal area network.

The Examiner conceded, however, that Bridgelall does not expressly disclose sending a signal to the controller via the personal area network transceiver to route the voice communication. The Examiner also conceded that Bridgelall does not expressly disclose the alleged selecting device selecting the wireless personal area network transceiver for routing the voice communication through the wireless personal area network when the wireless personal area network transceiver detects a wireless personal area network connection, otherwise the selecting device selects the wireless local area network transceiver.

However, according to the Examiner, Bridgelall teaches initiating call re-route by the handset after detection of WLAN and the Examiner cited to paragraphs [0065], [0069], and [0070] of Bridgelall.

Applicant respectfully submits, however, that Bridgelall does not teach, suggest or fairly disclose a wireless voice over Internet Protocol telephone having the features recited in independent claim 1 herein. The wireless voice over Internet Protocol telephone includes a wireless handset that comprises a wireless personal area network transceiver configured to communicate with a wireless personal area network, a wireless local area network transceiver configured to communicate with a wireless local area network, and a selecting device for selecting between the wireless personal area network transceiver and the wireless local area network transceiver. The wireless handset is in voice communication with a telephone controller and the telephone controller is configured to communicate with a base station coupled to the wireless personal area network and an access point coupled to the wireless local area network. In claim 1, the selecting device selects the wireless personal area network transceiver for routing the voice communication through the wireless personal area network when the wireless personal area network transceiver detects a wireless personal area network connection, otherwise the selecting device selects the wireless local area network transceiver. Further in claim 1, the selecting device is configured to send a signal to the telephone controller via the wireless local

area network transceiver to route the voice communication for the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection. Still further in claim 1, the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

By contrast, the transceiver currently communicating with the controller, not the transceiver taking over the call, initiates the transfer in Bridgelall. For example, when switching from the WWAN to the WLAN, Bridgelall states that the WWAN initiates the transfer to the WLAN ([0069]; *cf.* Abstract). Upon receiving the transfer request, the WWAN checks whether the gateway connected to the WLAN radio is registered [0070]. The WLAN radio then verifies the caller ID is from the WWAN radio [0071]. The network issues a signal confirming to the WWAN radio that it is transferring the call and dropping the WWAN connection [0072]. At this point the WLAN AP begins queuing VoIP voice samples while it waits for the WLAN connection to be established (*Id.*). The WWAN radio acknowledges the transfer and the WLAN radio establishes a connection, whereupon the queued voice samples are released [0073]-[0074].

It should also be noted that the waiting periods in Mohammed cited by the Examiner in the Office Action are not present in the embodiments recited in claims 1, 14 and 39. Because the base station and AP are connected to the same network, the telephone controller merely re-routes the packets. The telephone controller does not have to initiate call transfers, etc. because the base station and AP are connected to the same network and same call controller.

Moreover, Bridgelall performs a similar process when switching from the WLAN to the WWAN (*see* [0077]-[0083]; *cf.* Abstract). The WLAN notifies the gateway to initiate a transfer to the WWAN radio. Similarly, the WWAN checks if the WWAN radio is registered on the network, notifies the WLAN radio the connection is being terminated and queues VoIP packets until the WWAN radio establishes communication with the network.

In order to fill the conceded deficiencies of Bridgelall, the Examiner turned to Awater, which, according to the Examiner, teaches a wireless handset having selecting device to select

connection between WLAN and WPAN, where WPAN is set as preferential connection. The Examiner cited to Fig. 1 and paragraphs [0050]-[0054] of Awater.

The aforementioned deficiencies of Bridgelall are not remedied by any teaching of Atwater. Atwater is directed to a device that has a Bluetooth Transceiver and an 802.11 transceiver, but does not teach or suggest sending a signal to a controller on the network that instructs the controller how to send packets (such as VoIP packets) to the handset. Thus, neither Bridgelall nor Atwater, alone or in combination teach or suggest each and every element of independent claims 1, 14 and 39 including for example, the selecting device of the wireless handset sending a signal to a telephone controller to route voice communications for the wireless handset through either a wireless local area network or a wireless personal area network. Therefore, independent claims 1, 14 and 39 are not obvious in view of Bridgelall and/or Atwater.

In order to fill the conceded deficiencies of Bridgelall and Awater, the Examiner turned to Mohammed which, according to the Examiner, teaches a subscriber device (12 of Fig. 1) enters and communicates with a wireless local area network (16 of Fig. 1) which causes a server/controller (24 of Fig. 1) to seamlessly reroute a call from a cellular network (15 of Fig. 1) to the wireless local area network (paragraphs 0055-0059). The Examiner took the position that it would have been obvious to one of ordinary skill in the art to know that call reroute can be initiated via the second/target wireless network as shift the burden in processing call re-route from the first/initial wireless network of Bridgelall.

Applicant disagrees with the above and further respectfully submits that the aforementioned deficiencies in Bridgelall and Atwater are not remedied by any teaching of Mohammed. In Mohammed, the network infrastructure performs the handoff (see paragraphs 59-59), not the wireless handset (see e.g. ¶ 59, "System server 24 ... contacts the cellular network to initiate a call to the landline associated with the base station 18" and ¶ 68 "base station may notify the system server 24 to initiate a handoff to the licensed wireless system"). Mohammed, like Bridgelall, initiates the new connection will still maintaining the old connection (e.g. a make before break) during call transfer (*see e.g.* ¶ 63 "The spacing between boundaries B3 and B4 allows for the establishment of simultaneous connections between the subscriber device 12 and both the licensed network and the unlicensed network"). Thus, neither Bridgelall, Atwater nor Mohammed, alone or in combination teach or suggest each and every element of

independent claim 1 and independent calims 14 and 39. Therefore, independent claim 1 and independent claims 14 and 39 are not obvious in view of Bridgelall, Atwater, and/or Mohammed.

In order to fill the conceded deficiencies of Bridgelall, Awater, and Mohammed, the Examiner turned to Leedom, Jr. which, according to the Examiner, teaches a mobile handset (UMMAD, 4 of Fig. 1) sends a transition request directly to a universal system traffic controller (21 of Fig. 1) to re-route a call from one communications system to another when within range (paragraphs 0043-0049), which would have been obvious to one of ordinary skill in the art to apply that the mobile handset can initiate call routing between networks via the target network in light of Mohammed for direct call re-route initiation. According to the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate having WPAN set as preferential connection for wireless handset selecting device taught by Awater et al. and sending direct call re-route request to the telephone controller when entering a wireless network taught by Mohammed and Leedom, Jr. into the wireless VoIP telephone of Bridgelall, in order to save power consumption and provide direct call re-route initiation.

Applicant disagrees with the above and further respectfully submits that the aforementioned deficiencies in Bridgelall, Atwater and Mohammed are not remedied by any teaching of Leedom. Leedom teaches away from claim 1 and independent claims 14 and 39 as Leedom teaches that the Universal System Traffic Controller (21 in Fig 1), not the wireless handset, transitions communications between different systems and protocols (*see e.g.* ¶ 43 "The universal traffic controller 21 operates to overcome the deficiencies noted and to seamlessly transition a communications between cellular communication systems using differing infrastructure and operating characteristics such as modulation, protocol, or system control information data format."; *see also* Abstract and ¶¶ 44 - 46).

Thus, neither Bridgelall, Atwater, Mohammed nor Leedom, alone or in combination teach or suggest each and every element of independent claim 1 and independent claims 14 and 39. Therefore, independent claim 1 and independent claims 14 and 39 are not obvious in view of Bridgelall, Atwater, Mohammed, and/or Leedom.

Claims 2-9 directly depend from claim 1 and therefore contain each and every element of claim 1. Thus, claims 2-9 are not obvious in view of the combination of Bridgelall, Atwater, Mohammed and/or Leedom for the reasons already set forth for claim 1.

B. Further, applicant respectfully submits that Bridgelall, Atwater, Mohammed and Leedom are not combinable in the manner as suggested by the Examiner.

It is respectfully submitted that the Examiner's motivation for combining the teachings of Bridgelall in view of Atwater, Mohammed and Leedom is found in the pending claims of the instant application, rather than in or from any benefit these patents could lend to each other. As such, the Examiner has artificially aggregated selected teachings from disparate art teachings in order to construct the device of claim 1 in hindsight.

Specifically, the Examiner took the positions that Bridgelall discloses at paragraphs [0068]-[0074] a call transfer process from WWAN to WLAN and that one of ordinary skill in the art would recognize the mobile switching center (MSC, 1211 of Fig. 12) to be a telephone controller, wherein the call through WLAN (1217 of Fig. 12) initiates reroute voice packets to through WLAN. Next the Examiner argued that there is nothing in applicant's pending claims that limits not to have call transfer or any of Bridgelall's and/or Mohammed's processes including a make before break during call transfer. Also, the Examiner further argued that there is nothing in applicant's specification as filed to show that the base station and AP of applicant are connected to the same network and that the specification only shows that the base station and AP are connected to the same call controller. The Examiner alleged a comparison between this inaccurate understanding of the specification of the subject application and the alleged base station and AP of Bridgelall which, according to the Examiner are also connected to the MSC.

Without conceding any of the above, applicant respectfully points out that the specification and drawings fully support the base station and access point being connected to the same network. However, the Examiner has essentially conceded that the base station and access point of Bridgelall are connected to different networks.

In addition, to the Examiner, in Mohammed, call re-route is shown to be initiated via the second/target wireless network as shift the burden in processing call re-route from the first/initial wireless network, which would have been obvious for one of ordinary skill in the art to adapt

into the telephone, method, and system of Bridgelall for the same reason of shifting burden. Leedom does not teach away. In the pending claims, however, the selecting device sends the signal to the telephone controller via either the wireless local server network or the wireless personal area network thereby controlling the transfer by the wireless device/handset.

The Examiner took the further position that paragraph [0043] of Leedom discloses that the universal system traffic controller operates to receive system control information and to coordainate this information between networks to seamlessly transition a communications. In the same paragraph, according to eth Examiner, Leedom also discloses that the universal system traffic controller could communicate directly with a mobile wireless handset to receive this information. So, to the Examiner, Leedom teaches having the wireless handset communicating with the universal system traffic controller to assist the wireless handset to transit from one system to another. Thus, the Examiner's position was that it would have been obvious to one of ordinary skill in the art to modify the telephone, method, and system of Bridgelall, Awater, and Mohammed into having the wireless handset to initiate call transfer/routing on the controller for obvious prompt transition operation.

However, the Examiner's reasoning for the combination is far removed from the claimed subject matter and also from the major thrust and benefits provided by the embodiments of the claimed invention.

More particularly, as pointed out above, an initiation of call transfers by relatively fixed or immovable network devices as accomplished in the past such as by Bridgelall and in the other art cited by the Examiner, is far removed from the initiating call transfers by highly movable wireless telephone devices. In the subject application, the wireless handset includes a wireless personal area network transceiver configured to communicate with a wireless personal area network, a wireless local area network transceiver configured to communicate with a wireless local area network, and a selecting device for selecting between the wireless personal area network transceiver and the wireless local area network transceiver. Unlike the art applied by the Examiner, the selecting device of the mobile wireless handset of the instant application is configured to select the wireless personal area network transceiver for routing the voice communication through the wireless personal area network when the wireless personal area network transceiver detects a wireless personal area network connection, otherwise the selecting

device selects the wireless local area network transceiver. Further, the selecting device is configured to send a signal to the telephone controller via the wireless local area network transceiver to route the voice communication for the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection. Still further, the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network

Accordingly, applicant respectfully submits that Bridgelall, Atwater, Mohammed and Leedom are not combinable in the manner as suggested by the Examiner as they teach, collectively and at best, a system for initiating call transfers based upon instructions from relatively fixed or immovable network devices, rather than by a selecting device of a mobile wireless handset. Also, the systems described by Bridgelall, Atwater, Mohammed and Leedom do not permit a selecting device of a wireless telephone to select the "forward" network wherein, in accordance with the claims pending in this application, the selecting device may send a signal to the telephone controller via the wireless local area network transceiver to route the voice communication for the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection, and wherein the selecting device may send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

Also, the joining of these teachings results in a patchwork of disjointed functions.

Therefore, independent claim 1 and claims 2-9 dependent therefrom are patentably distinct and unobvious in view of Bridgelall, Atwater, Mohammed and Leedom.

C. Still further, applicant respectfully submits the Examination Guidelines as further evidence that the claims are patentable over the art of record.

As further evidence that claims 1-9 are patentable over the art of record, Appellants refer to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 published by

the USPTO for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in *KSR International Co.* v. *Teleflex Inc.* These guidelines are to assist USPTO personnel to make a proper determination of obviousness under 35 U.S.C. 103 and to provide an appropriate supporting rationale. These guidelines became effective October 10, 2007.

Office personnel must first resolve the *Graham* factual inquiries. These inquiries include (1) a determination of the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the pertinent art.

Once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Various rationales are articulated in the Guidelines for this purpose including: (A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) ''Obvious to try''—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

To reject a claim based on the rationale of "Combining Prior Art Elements According to Known Methods to Yield Predictable Results," Office personnel must first resolve the Graham factual inquiries. Office personnel must then articulate the following:

> (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;

> (2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely would have performed the same function as it did separately;
>
> (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
>
> (4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

It is respectfully submitted that the Examiner did not articulate into the record any of these findings. In particular, the Examiner did not articulate a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference. Rather, the Examiner paraphrased the claim language and then cited to various portion of the prior art patents in alleged support of those claim features in the prior art. As argued above, the prior art patents applied do not necessarily support the Examiner's positions in the record.

In addition, the Examiner did not articulate a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely would have performed the same function as it did separately. Rather and to the contrary, the Examiner never demonstrated a wireless voice over Internet Protocol telephone including a wireless handset that comprises a selecting device for selecting between a wireless personal area network transceiver of the handset and a wireless local area network transceiver of the handset, wherein the selecting device selects the wireless personal area network transceiver for routing voice communication through a wireless personal area network when the wireless personal area network transceiver detects a wireless personal area network connection, otherwise the selecting device selects the wireless local area network transceiver, and wherein the selecting device is configured to send a signal to the telephone controller via the wireless local area network transceiver to route the voice communication for the wireless handset through the

wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection, and further wherein the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

In further addition, the Examiner did not articulate a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable. The notion of "predictable' or "predictability" is void throughout prosecution. In further support of Appellant's position on this finding, it is submitted that the Examiner's own reasons for combining the prior art patents vitiates the notion of "predictability" as required under the Guidelines using this rational.

Specifically, with regard to the combination of Bridgelall, Atwater, Mohammed and Leedom Examiner explained that "[i]t would have been obvious to one of ordinary skill in the art to know that call reroute can be initiated via the second/target wireless network as (sic.) shift the burden in processing call re-route from the first/initial wireless network of Bridgelall."

It is respectfully submitted that initiating call re-routing via the second/target wireless network teaches away from the system and methods recited in the claims of the present application wherein the selecting device of the wireless handset initiates the call re-routing.

Similarly, with regard to Leedom, the Examiner took the position that it would have been obvious "to incorporate having WPAN set as preferential connection for wireless handset selecting device taught by Awater et al. and sending direct call re-route request to the telephone controller when entering a wireless network taught by Mohammed and Leedom, Jr. into the wireless VoIP telephone of Bridgelell, in order to save power consumption and provide direct call re-route initiation."

However, applicant respectfully submits that the combination suggested by the Examainer would not lead to the predictable results of call re-routing by a selecting device of a mobile wireless handset because, as described above, none of the art teachings disclose a capability of a roaming wireless device to initiate call re-routing. Rather, they all teach call re-routing by fixed devices connected to their respective immovable networks.

Again, this has nothing to do with a system, method, and mechanism to allow for efficient call re-routing by a selecting device of a wireless handset as provided by the claims pending in the instant application. Accordingly, the results of the combination suggested by the Examiner would not be predictable in the sense of the invention as claimed.

It is respectfully submitted that claims 1-9 are patentable over the art of record, for reasons set out above and as evidenced by the Examiner's inability to apply the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 published by the USPTO for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in *KSR International Co.* v. *Teleflex Inc.*

Accordingly, that claims 1-9 are patentable over the art of record.

III. Claims 14-19 are in Condition for Allowance

A. Applicant respectfully submits that the combination of Bridgelall in view of Atwater, Mohammed and/or Leedom does not teach, suggest of fairly disclose the inventions recited in claims.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

In connection with claim 14, the Examiner took the position that Bridgelall, Awater, Mohammed, and Leedom teach a method for a wireless handset to send and receive voice over Internet Protocol using a wireless voice over Internet Protocol telephone as alleged by the Examiner in connection with claim 1, and where, according to the Examiner, Awater teach mode detection (paragraphs [0054]-[0055]). Without conceding that Awater teaches mode detection of the type recited in claim 14, and for at least the reasons which were set forth above, it is respectfully submitted that neither Bridgelall, Awater, Mohammed, nor Leedom alone or in any combination, teach or suggest all of the claim limitations of independent claim 14 and claims 15-19 dependent therefrom.

In particular, none of the art of record, alone or in combination teaches or suggests sending a first message via a locate area network transceiver notifying a telephone controller to

send subsequent voice over Internet Protocol packets for voice communication to a wireless handset via a wireless local area network in data communication with the wireless local area network transceiver responsive to determining the wireless handset is out of range of a base station, and sending a second message via a wireless personal area network transceiver notifying the telephone controller to send subsequent voice over Internet Protocol packets for the voice communication to the wireless handset via the base station responsive to determining the wireless handset has moved within range of the base station.

B. Further, applicant respectfully submits that Bridgelall, Awater, Mohammed, and Leedom are not combinable in the manner as suggested by the Examiner.

It is respectfully submitted that the Examiner's motivation for combining the teachings of Bridgelall with those of Awater, Mohammed, and Leedom is found in the pending claims in the instant application, rather than any benefit these patents could lend to each other.

Accordingly and at least for reasons set out above, appellants respectfully submit that Bridgelall, Awater, Mohammed, and Leedom are not combinable in the manner as suggested by the Examiner as they teach, collectively and at best, a remote editing system with a display device and an edit journal file for disaster recovery.

Therefore, independent claim 14 and claims 15-19 dependent therefrom are patentably distinct and unobvious in view of Bridgelall, Awater, Mohammed, or Leedom.

C. Still further, applicant respectfully submits the Examination Guidelines as further evidence that the claims are patentable over the art of record.

It is respectfully submitted that claims 14-19 are patentable over the art of record, at least for reasons set out above and as evidenced by the Examiner's inability to apply the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 published by the USPTO for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in *KSR International Co.* v. *Teleflex Inc.*

Accordingly, claims 14-19 are patentable over the art of record.

IV Claims 39-43 are in Condition for Allowance

A. Applicant respectfully submits that the combination of Bhansali in view of Beged-Dov and Elisney does not teach, suggest of fairly disclose the inventions recited in claims.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

In connection with claim 39, the Examiner took the position that Bridgelall, Awater, Mohammed, and Leedom teach a method for a wireless handset to send and receive voice over Internet Protocol using a wireless voice over Internet Protocol telephone as similarly alleged by the Examiner in connection with claim 1. Without necessarily conceding similarities between claims 1 and 39 not necessary to applicant's patentability positions set out herein, it is respectfully submitted that neither Bridgelall, Awater, Mohammed, nor Leedom alone or in any combination, teach or suggest all of the claim limitations of independent claim 39 and claims 40-43 dependent therefrom.

In particular, none of the art of record, alone or in combination teaches or suggests a system including a wireless handset wherein the wireless handset transmits a first message for a telephone controller that is sent via a wireless local area network access point to instruct the telephone controller to direct communications for the wireless handset through a wireless local area network access point responsive to the wireless handset being unable to detect a base station, and wherein the wireless handset transmits a second message for the telephone controller that is sent via the base station to instruct the telephone controller to direct communications for the wireless handset through the base station responsive to detecting the base station.

B. Further, applicant respectfully submits that Bridgelall, Awater, Mohammed, and Leedom are not combinable in the manner as suggested by the Examiner.

It is respectfully submitted that the Examiner's motivation for combining the teachings of Bridgelall with those of Awater, Mohammed, and Leedom is found in the pending claims in the instant application, rather than any benefit these patents could lend to each other.

Accordingly and at least for reasons set out above, appellants respectfully submit that Bridgelall, Awater, Mohammed, and Leedom are not combinable in the manner as suggested by the Examiner as they teach, collectively and at best, a remote editing system with a display device and an edit journal file for disaster recovery.

Therefore, independent claim 39 and claims 40-43 dependent therefrom are patentably distinct and unobvious in view of Bridgelall, Awater, Mohammed, or Leedom.

C. Still further, applicant respectfully submits the Examination Guidelines as further evidence that the claims are patentable over the art of record.

It is respectfully submitted that claims 39-43 are patentable over the art of record, at least for reasons set out above and as evidenced by the Examiner's inability to apply the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 published by the USPTO for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in *KSR International Co.* v. *Teleflex Inc.*

Accordingly, claims 39-43 are patentable over the art of record.

Conclusion

For the reasons just set forth, applicant submits that the claims as presently standing are novel, patentably distinct, and unobvious over the cited art of record and in condition for allowance thereover.

Allowance of all claims and a Notice of Allowance are earnestly solicited.

If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 72255/30267.

Respectfully submitted,

Date: 27FEB09

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CLAIMS APPENDIX

Listing of Claims:

1. A wireless voice over Internet Protocol telephone, comprising:

a wireless handset that comprises a wireless personal area network transceiver configured to communicate with a wireless personal area network, a wireless local area network transceiver configured to communicate with a wireless local area network, and a selecting device for selecting between the wireless personal area network transceiver and the wireless local area network transceiver;

wherein the wireless handset is in voice communication with a telephone controller, the telephone controller is configured to communicate with a base station coupled to the wireless personal area network and an access point coupled to the wireless local area network;

wherein the selecting device selects the wireless personal area network transceiver for routing the voice communication through the wireless personal area network when the wireless personal area network transceiver detects a wireless personal area network connection, otherwise the selecting device selects the wireless local area network transceiver;

wherein the selecting device is configured to send a signal to the telephone controller via the wireless local area network transceiver to route the voice communication for the wireless handset through the wireless local area network responsive to the wireless personal area network transceiver being unable to detect a wireless personal area network connection; and

wherein the selecting device is configured to send a signal to the telephone controller via the personal area network transceiver to route the voice communication for the wireless handset

through the wireless personal area network responsive to reestablishing a connection with the wireless personal area network.

2. The wireless voice over Internet Protocol telephone of claim 1, further comprising a base station that comprises a wireless personal area network transceiver for communicating with the wireless personal area network transceiver of the wireless handset.

3. The wireless voice over Internet Protocol telephone of claim 2, the base station further comprising a network interface card, wherein the base station notifies a wireless local area network when a wireless personal area network signal from the wireless handset is not detected.

4. The wireless voice over Internet Protocol telephone of claim 2, wherein the wireless personal area network transceiver of the base station is a Bluetooth transceiver and the wireless personal area network transceiver of the wireless handset is a Bluetooth transceiver.

5. The wireless voice over Internet Protocol telephone of claim 2, wherein the wireless personal area network transceiver of the base station is an infrared transceiver and the wireless personal area network transceiver of the wireless handset is an infrared transceiver.

6. The wireless voice over Internet Protocol telephone of claim 2, wherein the controller is a phone controller that is communicatively coupled to at least one access point over a local area network, and to the base station.

7. The wireless voice over Internet Protocol telephone of claim 1, wherein the wireless local area network transceiver is an 802.11x transceiver.

8. The wireless voice over Internet Protocol telephone of claim 1, wherein the wireless personal area network transceiver is an infrared transceiver.

9. The wireless voice over Internet Protocol telephone of claim 1, wherein the wireless personal area network transceiver is a Bluetooth transceiver.

Claims 10 – 13 Canceled

14. A method for a wireless handset to send and receive voice over Internet Protocol using a wireless voice over Internet Protocol telephone, comprising the steps of:

establishing a wireless voice communication employing voice over Internet Protocol packets with a telephone controller through a base station via a wireless personal area network transceiver;

determining when the wireless handset is out of range of the base station;

activating a wireless local area network transceiver by the wireless handset responsive to determining the wireless handset is out of range of the base station;

sending a first message via the locate area network transceiver notifying the telephone controller to send subsequent voice over Internet Protocol packets for the voice communication to the wireless handset via a wireless local area network in data communication with the wireless local area network transceiver responsive to determining the wireless handset is out of range of the base station; and

sending a second message via the wireless personal area network transceiver notifying the telephone controller to send subsequent voice over Internet Protocol packets for the voice communication to the wireless handset via the base station responsive to determining the wireless handset has moved within range of the base station.

15. The method of claim 14 wherein the wireless local area network transceiver is at a remote location and communicatively coupled to the base station.

16. The method of claim 14, further comprising the step of establishing a communications channel between a base station and a wireless handset using the wireless personal area network transceiver.

17. The method of claim 16, wherein the wireless personal area network transceiver is a Bluetooth transceiver.

18. The method of claim 16 further comprising authenticating the wireless handset by the base station.

19. The method of claim 18, wherein the wireless local area network transceiver is an 802.11x transceiver.

Claims 20 - 38. Canceled

39. A system, comprising:

a network;

a telephone controller coupled to the network;

a wireless local area network access point coupled to the network and configured to communicate with the telephone controller via the network;

a wireless handset; and

a base station coupled to the network and configured to the communicate with the telephone controller via the network, the base station is further configured to wirelessly communicate with the wireless handset;

wherein the wireless handset is configured to wirelessly communicate with the base station using a first protocol and to wirelessly communicate with the wireless local area access point using a second protocol;

wherein the wireless handset is configured to communicate with the base station when the wireless handset detects the base station; otherwise the wireless handset communicates with the wireless local area network access point;

wherein the wireless handset transmits a first message for the telephone controller that is sent via the wireless local area network access point to instruct the telephone controller to direct communications for the wireless handset through the wireless local area network access point responsive to the wireless handset being unable to detect the base station; and

wherein the wireless handset transmits a second message for the telephone controller that is sent via the base station to instruct the telephone controller to direct communications for the wireless handset through the base station responsive to detecting the base station.

40. The system of claim 39, wherein the wireless handset communicates Voice over Internet Protocol compatible packets with the telephone controller.

41. The system of claim 39, wherein the base station communicates with the wireless handset using a Bluetooth compatible protocol.

42. The system of claim 39, wherein the wireless local area access point communicates with the wireless handset using an 802.11 compatible protocol.

43. The system of claim 39, wherein the telephone controller communicates with the base station using an Internet Protocol compatible protocol and the telephone controller communicates with the wireless local area network access point using an Internet Protocol compatible protocol.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.